



ЦЕНТР ПРАВ ЛЮДИНИ

## **Proposals for a joint statement by the UN Committee on Enforced Disappearances and the UN Working Group on Enforced or Involuntary Disappearances on the concept of short-term enforced disappearance**

Given that there is no single legal definition of what is considered short-term enforced disappearance but the practice of the Committee on Enforced Disappearances and the UN Working Group on Enforced or Involuntary Disappearances defines this as a disappearance that lasted less than **one day**, we will use in the text of this submission the definition "short-term enforced disappearance" to refer to cases that lasted from a **few minutes to one day**.

**A total number of recorded cases of enforced disappearances.** Between February 24, 2022 and June 20, 2023, ZMINA documented 562 cases of enforced disappearance of active citizens (volunteers, activists, representatives of local government, journalists, educators, employees of cultural and religious institutions, as well as members of their families) from open sources, of which 100 cases were additionally in-depth verified according to the requirements of the Berkeley Protocol. The organization also conducted 52 in-depth interviews, both with persons who were already released and the relatives of active citizens who were still in Russian-controlled places of detention<sup>1</sup>.

Regarding the **duration of confinement**, it should be noted that 17 people were released on the same day, and 12 people – the next day after the detention. Twenty people were released within a week (2-7 days) after the detention. Thirty-five people were arbitrarily held captive for one to two weeks, and 89 people were held captive for more than two weeks (15–23 days).

In general, according to the observations of the Human Rights Centre ZMINA, if a civilian is not released in the coming days after detention, it becomes increasingly difficult to achieve his/her release. At least 311 active citizens have not yet been released or their fate remains unknown.

Witnesses of such detentions and victims who were already released indicated that the enforced and involuntary disappearances were committed by agents of the state – the Russian Federation – as well as representatives of "proxy entities" – the so-called

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<sup>1</sup> The full text of the report "Enforced disappearances and arbitrary detentions of active citizens during the full-scale armed aggression by Russia against Ukraine (February 2022 — June 2023)" in English is available at the link: [https://zmina.ua/wp-content/uploads/sites/2/2023/07/lost\\_people\\_eng\\_web\\_03.pdf](https://zmina.ua/wp-content/uploads/sites/2/2023/07/lost_people_eng_web_03.pdf)

Donetsk and Luhansk People's Republics, which were actually under the control and accountable to the Russian military and representatives of the Federal Security Service of the Russian Federation.

The presence of Russian troops in the territory of the partially occupied Donetsk and Luhansk regions and the spread of effective control of the Russian Federation over these territories was pointed out by the European Court of Human Rights in the judgment passed on January 25, 2023 regarding the admissibility of the interstate application "Ukraine and the Netherlands v. Russia" (No. 8019 /16, 43800/14, 28525/20). The ECHR pointed to the presence of Russian troops in Donbas since at least April 2014 and separately indicated that Russia's effective control over the so-called Donetsk and Luhansk People's Republics was maintained at least until the beginning of 2022<sup>2</sup>.

### **Groups of units that committed enforced disappearances and involuntary detentions:**

#### ***1. Representatives of the Federal Security Service of the Russian Federation***

The interviewees and their relatives identified these units by the higher quality of military equipment and their widespread use of established methods of interrogation, torture, confinement in places of detention.

#### ***2. Army units of the Russian Federation***

The victims identified these units by the color of their camouflage ("green", "swamp green") and the quality of their equipment. Some of the victims and witnesses of disappearances reported in their testimonies the involvement of representatives of units, mainly formed from residents of the North Caucasus, Far East, and Siberian parts of Russia in the enforced disappearances.

#### ***3. Units of the so-called "DPR" and "LPR"***

Such units were formed from the population of the occupied territories of Donetsk and Luhansk regions. The victims identified them by worse equipment, a different accent, etc. In many cases, such units performed the functions of armed guards of detainees or directly committed illegal detention and subsequent torture of detainees.

The short-term enforced disappearances documented by Human Rights Centre ZMINA can be divided into at least three groups by **reasons and methods of commission:**

#### ***1. Stopping at a "checkpoint" while conducting "filtration" procedures***

Since the beginning of the full-scale invasion, Russian troops set up a system of checkpoints in the temporarily occupied territories which from the first days of the invasion were not equipped with special devices or computers with electronic databases. The check was carried out manually, and the civilians who were forced to pass through these checkpoints had to present their passports and other identification

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<sup>2</sup> Case of Ukraine and the Netherlands v. Russia (Applications nos. 8019/16, 43800/14 and 28525/20) – Decision by 30 November 2022, published on 25 January 2023: <https://hudoc.echr.coe.int/eng?i=001-222889>

documents, show the contents of their mobile phones (both the files contained on it and messages in social networks: the fact of their existence and the content).

During such a check, civilians could either be ordered to wait near the queue or separated from the queue and forced to wait in separate rooms at a checkpoint under the supervision of military personnel or other persons present at the checkpoints. Such waiting was not voluntary, civilians waited without a mobile phone, identity documents, this process could last several hours, therefore, on the cumulative principle, we believe that even such detention, which lasted for several hours, had signs of involuntary restriction of freedom and, therefore, it can be qualified as a short-term enforced disappearance.

## ***2. Conducting "raids" and "sweeps" on the street and in people's homes (both according to lists and selectively)***

ZMINA recorded appeals from residents of settlements liberated during the counteroffensive of the Armed Forces of Ukraine (Kharkiv, Kyiv, Chernihiv regions), and continues to record reports from residents of temporarily occupied territories (Kherson, Zaporizhia regions) regarding the mass nature of "raids" and "checks" by the Russian armed forces and representatives of the so-called administrations.

In the settlements of Tsyркunь, Savyntsi, Ruska Lozova, Pisky-Radkivski, Balakliya, Borova, Borshchivka of Kharkiv region, the Russian military and representatives of proxy entities carried out a so-called "sweep" – they checked the houses of activists and took away all men (and sometimes also women) who lived in this house. Civilians were in fact in a position where they could not freely dispose of their right to free movement and, therefore, could be recognized, on certain grounds, as being subjected to restrictions on the right to liberty and personal integrity and, therefore, the victims of short-term enforced disappearance even if it was not accompanied by the physical transfer of a person to administrative buildings.

## ***3. Targeted abductions of active citizens aimed at intimidating activists, volunteers, representatives of local self-government and informal leaders of communities, religious and cultural figures, etc. and preventing them from carrying out their activities or obtaining certain information***

Usually, such cases concerned the participants in peaceful rallies against the Russian occupation, organizers of the evacuation of the civilian population, drivers of evacuation buses, volunteers who evacuated the civilian population from the occupation on their own, delivered food and medicines to the residents. Representatives of the occupation authorities spied on the rally participants to establish their places of residence and track their routes, and then organized "raids" on them. Such detentions lasted from several hours to several days.

In particular, Human Rights Centre ZMINA is aware of at least four cases of short-term detentions during peaceful rallies in various settlements of the temporarily occupied

part of Kherson region (Kakhovka, Kherson<sup>3</sup>) who were released within the first day or 2-3 days after such detentions during rallies.

Short-term enforced disappearances are also used against representatives of local self-government bodies to persuade them to cooperate. ZMINA documented the testimony of Mykola Sikalenko, the head of the Tsyrkuny village military administration of Kharkiv region. Representatives of the occupation authorities abducted him twice — on March 3 and 21, 2022. He was held captive for one day during the first time and for six days during the second time. Every night, Sikalenko was transported to a different place without being informed of what would be done to him, nor was he given food or the opportunity to use the toilet.

ZMINA documented at least eight cases of enforced disappearances of religious figures (Orthodox priests, Baptist Christians, and representatives of other denominations), who were usually detained for a short period of time, from a few hours to a few days.

At 08:30 on March 30, 2022, people who called themselves "militia" took Serhiy Chudynovych, a priest of the Orthodox Church of Ukraine, abbot of the Church of the Holy Mother of God, a public figure and volunteer, a religious figure, directly from a church in Kherson. As the priest points out, he was undressed, the men tried to stick a baton into his anus: "They choked me, beat, beat hard on the knees. When I asked for water, they gave me vodka. Then, after all, they forced me to agree to cooperate. When I signed a document, they released me and told me to do what I had done before."<sup>4</sup>

Representatives of the cultural sphere were also usually detained for a short time to obtain information or to intimidate. For example, Halyna Kucher, a keeper of the Melitopol Local History Museum, was detained on April 30, 2022. After several hours of interrogation regarding specific exhibits of the collection, she was released on the night of May 1<sup>5</sup>. Leyla Ibrahimova, a member of the Zaporizhzhia Regional Council, director of the Melitopol Local History Museum, was abducted from her home in Melitopol at 06:00 on March 10, 2022, by people in military uniform. Ibrahimova was released on the same day after a search, confiscation of her mobile phone, and questioning about her activities<sup>6</sup>.

### **Correlation between the use of torture and/or ill-treatment and the time spent under the control of Russian authorities, as well as the time of death in cases when a person was found dead after abduction or died shortly after the release**

It is the first hours of detention that are usually the most emotionally intense and are characterized by pressure on detainees exerted by the occupation authorities and the

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<sup>3</sup> Kherson city was liberated from Russian occupation on November 11, 2022

<sup>4</sup> 'They gave me vodka instead of water': a priest tells about abducting and torture by occupiers in Kherson // ZMINA, October 14, 2022 - <https://zmina.info/columns/zamist-vody-davaly-gorilku-svyashhennyk-pro-vykradennya-i-katuvannya-okupantamy-u-hersoni/>

<sup>5</sup> Testimonies documented by Human Rights Centre ZMINA from open sources of information in accordance with the Berkeley Protocol

<sup>6</sup> In Melitopol, Russian military abduct and later release regional council member// Radio Liberty, March 10, 2022 - <https://www.radiosvoboda.org/a/news-melitopol-ibrahimova/31746254.html>

greatest number of human rights violations. Based on the information we received, the purpose of such enforced disappearances is to make active citizens cooperate with the occupation authorities or to put pressure on them to commit certain actions or refrain from them during the first hours of confinement.

In particular, on June 22, 2022, by order of the commander, the Russian military from the 15th special purpose detachment "Vyatich" of the Federal Service of the National Guard of the Russian Federation detained a 19-year-old son of Serhiy Dereza, a headman of Ukrayinka starosta's constituency of Ivanivka community of Kherson region, and took him to "police department". Searching for his son, the headman was forced to come to the occupiers. Only then did the Russians release the boy and illegally imprison his father. The man was held for at least two hours, beaten, and tortured with electric shocks<sup>7</sup>. Before that, at the beginning of May 2022, representatives of the same detachment abducted the son of another representative of local self-government, occupiers tortured him for several hours to find out the whereabouts of his father. Based on this fact, the Security Service of Ukraine conducted a pre-trial investigation and served the commander of this detachment, Russian citizen Aleksey Oshchepkov with a notice of charges in absentia<sup>8</sup>.

To put pressure on Svitlana Zalizetska, the editor-in-chief of RIA Melitopol, her elderly father Yosyp Zalizetsky was taken hostage on March 23, 2022 and released on March 25 as Svitlana fulfilled the demands of the occupiers, handing over the control of the RIA Melitopol website to them<sup>9</sup>.

Human Rights Centre ZMINA is aware of 16 cases of enforced disappearances of active citizens which ended in the death of the detained persons. Of these, at least two cases are characterized by the fact that torture and ill-treatment, which eventually led to death, were applied within the first day of detention.

At least one case of abduction of representatives of local self-government bodies by the Russian military ended with the murder of the entire family. The data of the investigation into the murder of the Sukhenko family – the headwoman of Motyzhyn village, Kyiv region, her husband, and son – have not been disclosed, but law

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<sup>7</sup> Russian Guard commander Aleksey Oshchepkov suspected of abusing and torturing residents of Ivanivka community in Kherson region // Center for Journalistic Investigations, February 20, 2023 - <https://investigator.org.ua/ua/news-2/251748/>

<sup>8</sup> Notice of charges and summons to A.M. Oshchepkov to appear on February 22, 2023, February 23, 2023, February 24, 2023 (original and translation) // Website of the Prosecutor General's Office of Ukraine - <https://www.gp.gov.ua/ua/posts/povidomlennya-pro-pidozru-ta-povistka-pro-viklik-oshchepkova-om-na-22022023-23022023-24022023-original-ta-pereklad>

<sup>9</sup> Russian occupiers systematically kidnap activists and journalists in Ukraine. List of abducted (updated) // ZMINA, March 30, 2022 - <https://zmina.info/articles/rosijski-okupanty-pochaly-systemno-vykradaty-aktyvistiv-v-ukrayini-spysok-vykradenyh-onovlyuyetsya/>

enforcement officers publicly indicated that the family was tortured and killed on March 24, 2022, i.e., within the first day after the enforced disappearance.<sup>1011</sup>

According to the information received by Human Rights Centre ZMINA documentators, the Russian military and other representatives of the occupation authorities used torture and other forms of ill-treatment against civilians, in particular, active citizens, during detentions and subsequent interrogations **systematically and on a large scale** – in the populated settlements of at least nine regions (Kherson, Zaporizhzhia, Donetsk, Kharkiv, Kyiv, Chernihiv, Mykolayiv, Luhansk, Sumy), which were or have been under the control of the Russian army since the beginning of the full-scale invasion.

In the vast majority of cases documented by us, the use of torture and ill-treatment took place in the first hours after detention, so we believe that the **lower threshold for the duration of time under military control, which has signs of enforced disappearance or arbitrary detention, should be abolished because in practice the violation of rights of civilians begins from the first minute of disappearance or detention and irreparable harm can be inflicted on a detained person within a relatively short period of time (from a few minutes to several hours) entailing serious consequences, including death as a result of torture and/or ill-treatment.**

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<sup>10</sup> Five Russian soldiers and three Wagner fighters suspected of murdering Motyzhyn headwoman's family – Venediktova // Ukrinform, May 24, 2022 - <https://www.ukrinform.ua/rubric-ato/3491021-u-vbivstvi-starosti-motizina-pidozruut-patoh-vijskovih-rf-i-troh-vagnerivciv.html>

<sup>11</sup> Tortured by occupiers: story of Motyzhyn headwoman's family // Big Kyiv, October 11, 2022 - <https://bigkyiv.com.ua/zakatovani-okupantamy-istoriya-rodyny-starosty-motyzhyna/>